



RICHARD F. CORTEZ, Mayor
HILDA SALINAS, Mayor Pro-Tem and Commissioner District 3
AIDA RAMIREZ, Mayor Pro-Tem and Commissioner District 4
SCOTT C. CRANE, Commissioner District 1
MARCUS C. BARRERA, Commissioner District 2
JOHN J. INGRAM, Commissioner District 5
JIM DARLING, Commissioner District 6

MIKE R. PEREZ, City Manager

November 21, 2011

Received & Inspected

NOV 22 2011

FCC Mail Room

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

CC Docket No. 02-6

Carla M. Rodriguez, Director
Office of Grant Administration
City of McAllen
1300 Houston Avenue
McAllen, TX. 78501
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Request for Waiver of a decision made by USAC

FCDL Date: September 28, 2011
Form 471 Number: 268489
Funding Year: 2010
Billed Entity Name: McAllen Memorial Library
BEN: 141632
FRN: 2078524
Service Provider: AT&T DataComm, Inc.
SPIN: 143004812

Decision being appealed: Universal Services Administrative Company (USAC) Funding Commitment Decision Letter (FCDL) dated September 28, 2011 stated the McAllen Memorial Library's Form 471 application was denied because a signed and dated contract with the service provider was not in place at the time of the submission of the FCC Form 471 certification or the window close date.

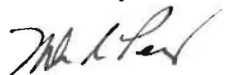
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Summary: Form 471 funding request was for eligible services tied to the construction of the new McAllen Public Library project awaiting funding approval and award of contract. City of McAllen purchasing rules dictate that funding and City Commission approval be secured prior to entering into a binding contract. Form 471 filing deadline was February 12, 2010. Funding in the form of Certificates of Obligation for the construction project was approved by the City Commission on May 10, 2010 (see Attachment 1) and permission to enter into E-rate contract was granted on May 24, 2010 (see Attachment 2). Contract was signed by City Management and Service Provider on May 25, 2010 (see Attachment 3). Construction of the new McAllen Public Library began on June 21, 2010. The Program Integrity Assurance (PIA) team requested additional information between May 2010 and July 2011. All requests were fulfilled. A PIA review form dated July 9, 2010, indicated "based on the documentation that you have provided we intend to modify application 768489, FRN 2078524 to change the contract award date. The contract award date has been changed from 02/19/2010 to 05/25/2010" (see Attachment 4). On August 21, 2011, a signed and certified email in response for additional information included the request to change Contract Award Date from February 19, 2010 to May 25, 2010 (see Attachment 5). City issued Award Letter to FRN 2078524 Service Provider AT&T DataComm, Inc. on November 7, 2011 (see Attachment 6). Installation of requested services at the construction site is complete.

Basis for Requesting a Waiver: McAllen Memorial Library followed the City of McAllen purchasing regulations and delayed signing the contract until approval of the Certificates of Obligation funding was secured for the construction project. Once funding was secured, permission was sought and granted by the City Commission to enter into the E-Rate contracts. During the PIA review process, lack of signed contract was acknowledged and permission was sought and granted to amend contract date from February 19, 2010 to May 25, 2010. The reason for requesting a waiver is that the City assumed that by signing the request to change Contract Award Date brought us into compliance with USAC rules.

Impact of this Denial: This denial represents a fiscal loss to the City of McAllen for the eligible services requested for the new McAllen Public Library. Without the E-Rate discount, the construction project may end in an over-budget status. Due to the circumstances described, we believe this Request for Waiver of a USAC regulation is a valid one, and approval of this Waiver is reasonable and in keeping with the overall goals of the E-Rate program.

Sincerely,



Mike R. Perez, City Manager

cc: Brent Branham, Deputy City Manager
Jose A. Gamez, Library Director
Carla M. Rodriguez, Grant Director
Teclo Garcia, Governmental Affairs Director
Brenda Monteith, Account Manager, AT&T Datacom, Inc.

Attachments

ATTACHMENT 1

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN**

The McAllen Board of Commissioners convened in a Regular Meeting on Monday, May 10, 2010 at 4:00 p.m. at McAllen City Hall Third (3rd) Floor Commission Chambers, with the following present:

Mayor Richard Cortez
Mayor Pro Tem Hilda Salinas
Commissioner Scott Crane
Commissioner Marcus Barrera
Commissioner John Ingram
Commissioner Jim Darling

Absent: Mayor Pro Tem Ramirez

City Staff: Mike R. Perez, City Manager
Kevin Pagan, City Attorney
Brent Branham, Deputy City Manager
Roy Rodriguez, Assistant City Manager
Pilar Rodriguez, Assistant City Manager
Wendy Smith, Assistant City Manager
Annette Villarreal, City Secretary
Perla Zamora, Deputy City Secretary
Yvette Barrera, City Engineer
Juli Rankin, Director of Planning

CALL TO ORDER:

Mayor Cortez called the meeting to order.

At this time, Item 2 was addressed.

2. Ordinance authorizing the issuance of City of McAllen, Texas Combination Tax and Revenue Certificates of Obligation, Series 2010, approving an Official Statement, authorizing the execution of a Purchase Contract, making provisions for the Security thereof and ordaining other matters relating to the subject.

Staff recommended adoption of an ordinance authorizing the issuance of City of McAllen, Texas Combination Tax and Revenue Certificate of Obligation, Series 2010, approving an Official Statement, authorizing the execution of a Purchase Contract, making provisions for the Security thereof and ordaining other matters relating to the subject.

Anne Burger with First Southwest Company, gave a brief market update touching on the timing factor as it relates to pricing. She noted that the timing factor was crucial as the stock market showed a dramatic change shortly after the pricing was wrapped up which contributed toward the interest rate received. The specifics of the bond sale were highlighted as follows:

10 year final maturity which included a five year call date without penalty for pay-off
2.9% true interest cost
Par amount of bonds \$29,030,000
\$3 1/2 million of annual debt service
Local distribution for the certificates of obligation included McAllen and Hidalgo County residents and Texas retail

Ms. Burger made reference to the rating agency visits which contributed to the upgrade in rating which saved 5 basis points. She thanked the underwriters for their assistance in the bond sale proceedings.

Commissioner Barrera moved to adopt the ordinance as recommended. Commissioner Ingram seconded the motion. The motion carried unanimously by those present.

PROCLAMATIONS:

Motorcycle Safety Month – Donna Herrin

Commissioner Darling read and presented a proclamation for *Motorcycle Safety Month*.

ORDINANCE NO. 2010-28

**ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF McALLEN, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION,
SERIES 2010, APPROVING AN OFFICIAL STATEMENT, AUTHORIZING THE
EXECUTION OF A PURCHASE CONTRACT, MAKING PROVISIONS FOR THE
SECURITY THEREOF AND ORDAINING OTHER MATTERS RELATING TO
THE SUBJECT**

**THE STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF McALLEN**

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WHEREAS, the Board of Commissioners deems it advisable to issue Certificates of Obligation in the amount of \$29,030,000, for paying all or a portion of the City's contractual obligations for the purpose of constructing, improving, renovating and equipping and acquiring land for the City's Main Library, Community Centers, and for improvements and extensions to the City's Waterworks System, and for paying legal, fiscal, architectural and engineering fees in connection with such projects; and

WHEREAS, the Certificates of Obligation hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271 of the Local Government Code with a pledge of revenues of the Waterworks and Sewer System pursuant to Chapter 1502 of the Government Code; and

WHEREAS, the Board of Commissioners has heretofore, on the 5th day of April, 2010, adopted a Resolution authorizing and directing the City Secretary to give notice of intention to issue Certificates of Obligation; and

WHEREAS, said notice has been duly published in the Monitor, which is a newspaper of general circulation in said City, in its issues of April 7, 2010 and April 14, 2010; and

WHEREAS, the City received no petition from the qualified electors of the City protesting the issuance of such Certificates of Obligation; and

WHEREAS, the meeting was open to the public and public notice of the time, place and purpose of said meeting was given pursuant to Chapter 551, Texas Government Code.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF McALLEN:

Section 1. **AMOUNT AND PURPOSE OF THE CERTIFICATES OF OBLIGATION.** The certificate of obligation or certificates of obligation of the City of McAllen (the "Issuer") are hereby authorized to be issued and delivered in the aggregate principal amount of \$29,030,000, for paying all or a portion of the City's contractual obligations for the purpose of constructing, improving, renovating and equipping and acquiring land for the City's Main Library, Community Centers, and for improvements and extensions to the City's Waterworks System, and for paying legal, fiscal, architectural and engineering fees in connection with such projects.

Section 2. **DESIGNATION OF THE CERTIFICATES OF OBLIGATION.** Each certificate of obligation issued pursuant to this Ordinance shall be designated: "CITY OF McALLEN, TEXAS COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION, SERIES 2010", and initially there shall be issued, sold, and delivered hereunder a single fully registered certificate of obligation, without interest coupons, payable in installments of principal (the "Initial Certificate of Obligation"), but the Initial Certificate of Obligation may be assigned and transferred and/or converted into and exchanged for a like aggregate principal amount of fully registered certificates of obligation, without interest coupons, having serial maturities, and in the denomination or denominations of \$5,000 or any integral multiple of \$5,000, all in the manner hereinafter provided. The term "Certificates of Obligation" as used in this Ordinance shall mean and include collectively the Initial Certificate of Obligation and all substitute certificates of obligation exchanged therefor, as well as all other substitute certificates of obligation and replacement certificates of obligation issued pursuant hereto, and the term "Certificate of Obligation" shall mean any of the Certificates of Obligation.

Section 3. **INITIAL DATE, DENOMINATION, NUMBER, MATURITIES, INITIAL REGISTERED OWNER, AND CHARACTERISTICS OF THE INITIAL CERTIFICATE OF OBLIGATION.** (a) The Initial Certificate of Obligation is hereby authorized to be issued, sold, and delivered hereunder as a single fully registered Certificate of Obligation, without interest coupons, dated May 1, 2010, in the denomination and aggregate principal amount of \$29,030,000, numbered R-1, payable in annual installments of principal to the initial registered owner thereof, to-wit: WELLS FARGO BANK, NATIONAL ASSOCIATION, or to the registered assignee or assignees of said Certificate of Obligation or any portion or portions thereof (in each case, the "registered owner"), with the annual installments of principal of the Initial Certificate of Obligation to be payable on the dates, respectively, and in the principal amounts, respectively, stated in the FORM OF INITIAL CERTIFICATE OF OBLIGATION set forth in this Ordinance.

(b) The Initial Certificate of Obligation (i) may be prepaid or redeemed prior to the respective scheduled due dates of installments of principal thereof, (ii) may be assigned and transferred, (iii) may be converted and exchanged for other Certificates of Obligation, (iv) shall have the characteristics, and (v) shall be signed and sealed, and the principal of and interest on the Initial Certificate of Obligation shall be payable, all as provided, and in the manner required or indicated, in the FORM OF INITIAL CERTIFICATE OF OBLIGATION set forth in this Ordinance.

Section 4. **INTEREST.** The unpaid principal balance of the Initial Certificate of Obligation shall bear interest from the date of the Initial Certificate of Obligation, and will be calculated on the basis of a 360-day year of twelve 30-day months to the respective scheduled due dates, or to the respective dates of prepayment or redemption, of the installments of principal of the Initial Certificate of Obligation, and said interest shall be payable, all in the manner provided and at the rates and on the dates stated in the FORM OF INITIAL CERTIFICATE OF OBLIGATION set forth in this Ordinance.

Section 5. **FORM OF INITIAL CERTIFICATE OF OBLIGATION.** The form of the Initial Certificate of Obligation, including the form of Registration Certificate of the Comptroller of Public Accounts to be endorsed on the Initial Certificate of Obligation, shall be substantially as follows:

CERTIFICATE FOR ORDINANCE NO. 2010-28

**THE STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF McALLEN**

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We, the undersigned officers of said City, hereby certify as follows:

1. The Board of Commissioners of said City convened in **REGULAR MEETING ON THE 10TH DAY OF MAY, 2010**, at the City Hall, and the roll was called of the duly constituted officers and members of said Board of Commissioners, to-wit:

Richard F. Cortez, Mayor
Hilda Salinas, Mayor Pro Tem
Aida Ramirez, Mayor Pro Tem
Marcus Barrera
Scott C. Crane
James E. Darling
John Ingram

Annette Villarreal, City Secretary

and all of said persons were present, except the following members: Ramirez thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written **ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF McALLEN, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010, APPROVING AN OFFICIAL STATEMENT, AUTHORIZING THE EXECUTION OF A PURCHASE CONTRACT, MAKING PROVISIONS FOR THE SECURITY THEREOF AND ORDAINING OTHER MATTERS RELATING TO THE SUBJECT** was duly introduced for the consideration of said Board of Commissioners and read in full. It was then duly moved and seconded that said Ordinance be passed, and, after due discussion, said motion carrying with it the passage of said Ordinance, prevailed and carried by the following vote:

AYES: All members of said Board of Commissioners shown present above voted "Aye".

NOES: NONE.

2. That a true, full and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Ordinance has been duly recorded in said Board of Commissioners's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said Board of Commissioners's minutes of said Meeting pertaining to the passage of said Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Board of Commissioners as indicated therein; that each of the officers and members of said Board of Commissioners was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Ordinance would be introduced and considered for passage at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

3. That the Mayor of said City has approved and hereby approves the aforesaid Ordinance; that the Mayor and the City Secretary of said City have duly signed said Ordinance; and that the Mayor and the City Secretary of said City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Ordinance for all purposes.

SIGNED AND SEALED the 10th day of May, 2010.

Carmella Villanuel
City Secretary

Richard F. Cruz
Mayor



ATTACHMENT 2

Memo

To: Mike R. Perez, City Manager
From: Jose A. Gamez, Library Director
CC: Brent Branham, Deputy City Manager
Date: May 18, 2010
Re: Authorize E-Rate Contracts

Goal

Authorize contracts with Insight Networking and AT&T Datacomm for information technology infrastructure at New Main Library in order to meet Universal Service Administrative Company grant guidelines and compete for E-Rate award.

Brief Explanation

In 2008, the City Commission authorized Library staff to seek E-Rate funding and approved the required E-Rate Technology plan. Since then, we have submitted an E-Rate application that will allow the City to receive a grant award based on the Technology Plan. Part of the application process required the completion of Form 470 which established a competitive environment as related to vendors and the following two have been selected as the most responsive and responsible vendors to complete the technology infrastructure:

AT&T Datacomm	Total Cost	Award (80%)	City Portion
1) Cabling Installation and Internal Connections	\$314,419.36	\$251,535.49	\$62,883.87
Insight Networking			
2) Rack, Cabinets, and Internal Connections	\$254,227.68	\$202,890.14	\$51,337.54
3) Uninterruptable Power Supply	\$100,342.22	\$78,418.03	\$21,924.19
4) Video Conferencing System	<u>\$78,418.33</u>	<u>\$62,735.06</u>	<u>\$15,683.77</u>
Totals:	\$747,408.09	\$595,578.72	\$151,829.37

Funding for the New Main Library was approved on Monday, May 10, 2010; however, the execution of these two contracts will allow the City to compete for an E-Rate award in the amount of \$595,578.72. Full acceptance of contracts on behalf of the Universal Service Administrative Company is upon City issuance of purchase orders based on proposals from vendors.

Options

- 1) Authorize contracts with two E-Rate service providers: Insight Networking and AT&T Datacomm.
- 2) Decline contract authorization, City funds 100% of New Main Library IT Infrastructure

Recommendation

Staff recommends the Authorization of contracts with Insight Networking and AT&T Datacomm.

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN**

The McAllen Board of Commissioners convened in a Regular Meeting on Monday, May 24, 2010, at 4:00 p.m. at McAllen City Hall Third (3rd) Floor Commission Chambers, with the following present:

Mayor Richard Cortez
Mayor Pro Tem Hilda Salinas
Mayor Pro Tem Aida Ramirez
Commissioner Scott Crane
Commissioner Marcus Barrera
Commissioner John Ingram
Commissioner Jim Darling

Staff: Brent Branham, Deputy City Manager
Kevin Pagan, City Attorney
Roy Rodriguez, Assistant City Manager
Pilar Rodriguez, Assistant City Manager
Wendy Smith, Assistant City Manager
Perla Zamora, Deputy City Secretary
Yvette Barrera, City Engineer
Carlos Sanchez, Public Works Director
Juli Rankin, Director of Planning

CALL TO ORDER

Mayor Cortez called the meeting to order.

PROCLAMATIONS

MDA Fill the Boot Campaign – Deborah Rodriguez

Commissioner Darling read and presented a proclamation for *MDA Fill the Boot Campaign*.

Homeownership Month – Luis Figueroa

Commissioner Ingram read and presented a proclamation for *Homeownership Month*.

Haitian Relief Volunteer Day

Said proclamation was deferred to the June 14, 2010 Meeting.

McAllen Scholars' Day

Commissioner Crane read and presented a proclamation for *McAllen Scholars' Day*.

1. **CONSENT AGENDA:** [All matters listed under Consent Agenda are considered to be routine by the Governing Body and will be enacted by one motion. There will be no separate discussion of these items; however, if discussion is desired, that item(s) will be removed from the Consent Agenda and will be considered separately.]

Commissioner Barrera moved to approve the Consent Agenda with the exception of item 1C, 1J and 1K and that said items be tabled. Commissioner Darling seconded the motion. The motion carried unanimously.

- A) **Approval of Minutes of Regular Meeting held May 10th and Special Meeting held May 13, 2010.**

Approved the minutes of Regular Meeting held May 10th and Special Meeting held May 13, 2010, as submitted.

- B) **Award of Supply Contract - Purchase of Lubricants.**

Awarded multiple supply contracts for the purchase of Lubricants as follows:

Arguindegui Oil Co. for items 8, 9, 10a and 10b in the amount of \$29,456.70;

Burton Companies for item 7 in the amount of \$2,448;
Hollon Oil Company for items 1, 2, 4a, 4b, 5a, 5b and 6 in the amount of \$36,625.60;
Oil Patch for items 3 and 11 in the amount of \$2,100.

- C) Approval of Memorandum of Understanding between the Valley Land Fund, Inc. and the City of McAllen/Quinta Mazatlan, accepting a grant for a Summer Youth Photo Contest.**

Said item was tabled.

- D) Authorization to issue purchase contract to Magic Valley Electric Co-op (MVEC) for the installation and relocation of street lights for Edinburg Consolidated School District.**

Authorized the issuance of a purchase contract to Magic Valley Electric Co-Op in the amount of \$42,268.97 for the installation and relocation of street lighting for Rooth Road for which Edinburg CISD has escrowed the funds to reimburse the City.

- E) Change Order No. 1- Bicentennial Boulevard Improvements Project (Nolana Avenue to Trenton Road).**

Approved Change Order No. 1 to IOC for Bicentennial Boulevard Improvements Project (Nolana Avenue to Trenton Road), in the amount of \$84,085.51.

- F) Change Order No. 1 - Installation of Law Enforcement Video Surveillance Project.**

Approved Change Order No. 1 to CelPlan Technologies, Inc. for additional wireless equipment needed to complete installation of Law Enforcement Video Surveillance Project in the amount of \$33,576.36, for a revised amount of \$547,697.46.

- G) Approval of Hidalgo County 2010 Rural Emergency Services Contract.**

Approved the Rural Emergency Services Contract with Hidalgo County for reimbursement for services provided to rural county areas by the McAllen Fire Department.

- H) Ordinance providing for a budget amendment for professional services for litigation and consultant matters.**

Adopted an ordinance providing for a budget amendment in the amount of \$372,000 for professional services for litigation and consultant matters.

- I) Resolution authorizing the submission of a grant application to the U.S. Department of Justice for an Evidence Collection Unit for the Police Department.**

Approved a resolution authorizing the submission of a grant application to the U.S. Department of Justice, for an Evidence Collection Unit for the Police Department for a funding request of \$41,589 with a local match requirement of \$30,061, for a total project cost of \$71,650.

- J) Resolution nominating RBC Manufacturing Corporation to the Office of Governor for designation as Qualified Business and Enterprise Project under the Texas Enterprise Program.**

Said item was tabled.

- K) Confirmation of appointments to the Ambulance Evaluation Committee and Quinta Mazatlan Advisory Board.**

Said item was tabled.

- L) Approval of expenses incurred for Employee Health Fair held in November, 2009.**

Approved expenses for Employee Health Fair held in November 2009, in the amount of \$35,365.

- M) Ordinance amending the McAllen Code of Ordinances, Chapter 106. Utilities; providing for substantial modification of the City of McAllen Pretreatment and Sewer Use Program.**